

(g) Any other position in a category for which payment of relocation incentives has been approved by OPM at the request of the head of an executive agency.

**§ 575.204 Ineligible categories of employees.**

An agency may not pay a relocation incentive to an employee in—

(a) A position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

(b) A position in the Senior Executive Service as a noncareer appointee (as defined in 5 U.S.C. 3132(a)(7));

(c) A position excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; or

(d) A position not otherwise covered by the exclusions in paragraphs (a), (b), and (c) of this section—

(1) To which an individual is appointed by the President without the advice and consent of the Senate;

(2) Designated as the head of an agency, including an agency headed by a collegial body composed of two or more individual members; or

(3) In which the employee is expected to receive an appointment as the head of an agency.

**§ 575.205 Applicability to employees.**

(a) An agency may pay a relocation incentive under the conditions prescribed in this subpart to—

(1) An employee of the Federal Government who must relocate to a different geographic area without a break in service to accept a position listed in § 575.203 in an agency when the position is likely to be difficult to fill as determined under § 575.206; or

(2) An employee of an agency who must relocate to a different geographic area (permanently or temporarily) to accept a position listed in § 575.203 when the position is likely to be difficult to fill as determined under § 575.206.

(b) An agency may pay a relocation incentive under paragraph (a) of this section when an employee must relocate to accept a position or assignment in a different geographic area. A posi-

tion is considered to be in a different geographic area if the worksite of the new position is 50 or more miles from the worksite of the position held immediately before the move. If the worksite of the new position is less than 50 miles from the worksite of the position held immediately before the move, but the employee must relocate (*i.e.*, establish a new residence) to accept the position, an authorized agency official may waive the 50-mile requirement and pay the employee a relocation incentive subject to the requirements of this subpart. In all cases, the employee must establish a residence in the new geographic area before the agency may pay a relocation incentive to the employee.

(c) A relocation incentive may be paid only when the employee's rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or 5 CFR part 430) for the position held immediately before the move is at least "Fully Successful" or equivalent.

**§ 575.206 Authorizing a relocation incentive.**

(a) *Authority of authorized agency official.* An authorized agency official retains sole and exclusive discretion, subject only to OPM review and oversight, to—

(1) Determine when a position is likely to be difficult to fill under paragraph (b) of this section;

(2) Approve a relocation incentive for an employee under § 575.205;

(3) Establish the criteria for determining the amount of a relocation incentive and the length of a service period under §§ 575.209 and 575.210, respectively;

(4) Request a waiver from OPM of the limitation on the maximum amount of a relocation incentive under § 575.209(c); and

(5) Establish the criteria for terminating a service agreement under § 575.211.

(b) *Factors for determining when a position is likely to be difficult to fill.* An agency in its sole and exclusive discretion, subject only to OPM review and oversight, may determine that a position is likely to be difficult to fill if the agency is likely to have difficulty